

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MIDWEST AGGREGATES, a division of	)	
PAYNE & DOLAN, INC.,	)	
	)	
Plaintiff,	)	Case No. 08-C-00511
	)	
v.	)	
	)	Hon. John A. Nordberg
J & L CONCRETE, INC. and UNITED	)	U.S. District Court Judge
CONCRETE WAUKEGAN, INC.,	)	
	)	Hon. Morton Denlow
Defendants.	)	U.S. District Court Magistrate Judge

**MOTION FOR EXTENSION OF TIME TO  
RESPOND TO MOTION FOR SUMMARY JUDGMENT**

UNITED CONCRETE WAUKEGAN, INC., Defendant herein (“United Concrete”), by its attorneys, Jeffrey B. Rose, Bruce L. Wald and Martin J. Wasserman, of Tishler & Wald, Ltd., moves this Honorable Court for the entry of an Order extending the time for United Concrete to respond to the Motion for Summary Judgment filed by Plaintiff in the above entitled litigation, to June 26, 2008. In support of this Motion, United states as follows:

1. As stated in the Affidavit of Jeffrey B. Rose, a copy of which is attached hereto, marked “Exhibit A” and made a part hereof (the “Rose Affidavit”), a status hearing was held before Judge Nordberg on April 24, 2008, at which time Vilan Odekar, counsel for the Plaintiff, stated that she would be filing a Motion for Summary Judgment by the end of that week.

2. As further stated in the Rose Affidavit, Mr. Rose never received a copy of a Motion for Summary Judgment filed in this proceeding, either before, on or after April 24, 2008, whether by mail, facsimile, personal delivery or electronic transmission, until June 3, 2008.

3. As further stated in the Rose Affidavit, in advance of the Court’s scheduled status hearing on June 5, 2008, Mr. Rose reviewed the court docket for this proceeding on the Pacer

system on June 3, 2008, at which time he discovered that a Motion for Summary Judgment had been filed and allegedly served via the Court's electronic filing system on or about April 24, 2008.

4. As further stated in the Rose Affidavit, since discovering that a Motion for Summary Judgment had been filed on April 24, 2008, Mr. Rose duly reviewed all of the incoming electronic mail received on his computer since that date, but he failed to locate any notice of other mention of the filing of said Motion.

5. As further stated in the Rose Affidavit, Mr. Rose has not erased any of the e-mail entries from my computer since April 24, 2008, with the exception of entries which were clearly "spam" or constituted other types of inappropriate messages.

6. By reason of the foregoing, Mr. Rose did not have an opportunity to respond to the Motion for Summary Judgment filed in this proceeding.

WHEREFORE, UNITED CONCRETE WAUKEGAN, INC., Defendant herein, prays this Honorable Court for the entry of an Order extending the time for United Concrete to respond to the Motion for Summary Judgment filed by Plaintiff in the above entitled litigation, to June 26, 2008.

Dated: June 3, 2008

Respectfully submitted,

UNITED CONCRETE WAUKEGAN,  
INC., Defendant and Movant

By: //Jeffrey B. Rose//  
One of Its Attorneys

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